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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/629,637	07/30/2003	Manabu Yamazoe	03500.013606.1	9143

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EXAMINER

SHERALI, ISHRAT I

ART UNIT PAPER NUMBER

2624

DATE MAILED: 07/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/629,637

Applicant(s)

YAMAZOE ET AL.

Examiner

Sherali Ishrat

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 24 April 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 6-8, 10-11, 13-32 is/are pending in the application.
- 4a) Of the above claim(s) 6-8, 10, 11, 13, 14 and 18-21 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 23-32 is/are allowed.
- 6) ☒ Claim(s) 15-17 and 22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. 09/337,548.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 09/30/2006 1/6/2006
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **Election/Restriction**

1. Applicant election of Group II (claims 15-17, 22-32) with traverse in the response received on 4/24/2006 is acknowledged .

Applicant has traversed the restriction requirement, however Applicant has not provided any evidence or arguments. Examiner had stated in the previous office Group I require search in class 348, subclass 222.1, which require detection and correction of underexposure or overexposure. Group II require search in class 382, subclass 167, which require correction color fog.

By stating that the claims in different groups are closely related, Applicant does not over come the restriction requirement. Restriction requirement is made FINAL.

## **Response to amendment/argument**

2. Based on the persuasive arguments, Examiner withdrawn art rejection for claims 15-17 and 22. However there remains the issue of double .

Claims 23-32 are indicated allowable over prior art of record

## **Double Patenting**

3. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

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A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

4. Claims 15-17 and 22 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 and 6-7 of U.S. Patent No. 6,628,825. Although the conflicting claims are not identical, they are not patentably distinct from each other because claims 15-17 are broader than 1 and 6-7. Claims 15-17 of instant application and claims 1 and 6-7 of U.S. Patent No. 6,628,825 both recite detecting the luminosity of highlight and shadow point, obtaining a hue of highlight point and the shadow point from plural pixel of the luminosity, executing correction on the original image based on the highlight point, the shadow point and the hue, executes color fog correction by matching color solid axis of the original image with an axis indicating the luminosity. Claims 15-17 are anticipated by claims 1 and 6-7.

Regarding claim 22 of instant application, claim 1 of U.S. Patent No. 6,628,825 discloses color fog correction by matching color solid axis of the original image with axis indicating luminance and contrast adjustment which corresponds to color fog includes color balance correction.

### **Allowable Subject Matter**

5. Claims 23-32 are allowable over prior art of record.

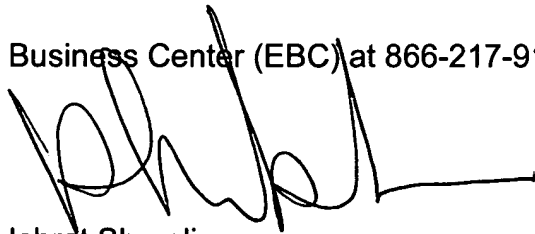
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## Communication

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sherali Ishrat whose telephone number is 571-272-7398. The examiner can normally be reached on 8:00 AM - 4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Matthew Bella can be reached on 571-272-7778. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Ishrat Sherali

July 15, 2006